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SENATE BILL 260

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Timothy M. Keller

AN ACT

RELATING TO PAYMENT OF WAGES; PROVIDING FOR AN ANNUAL COST-OF-LIVING INCREASE IN THE STATE MINIMUM WAGE RATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 50-4-22 NMSA 1978 (being Laws 1955, Chapter 200, Section 3, as amended) is amended to read:

"50-4-22. MINIMUM WAGES.--

A. An employer shall pay an employee the minimum wage rate of ~~[six dollars fifty cents (\$6.50) an hour. As of January 1, 2009, an employer shall pay the minimum wage rate of]~~ seven dollars fifty cents (\$7.50) an hour. As of January 1, 2010 and on January 1 of each successive year, the minimum wage rate shall be increased as provided in Subsection E of this section.

B. An employer furnishing food, utilities, supplies

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1 or housing to an employee who is engaged in agriculture may
2 deduct the reasonable value of such furnished items from any
3 wages due to the employee.

4 C. An employee who customarily and regularly
5 receives more than thirty dollars (\$30.00) a month in tips
6 shall be paid a minimum hourly wage of two dollars thirteen
7 cents (\$2.13). The employer may consider tips as part of
8 wages, but the tips combined with the employer's cash wage
9 shall not equal less than the minimum wage rate as provided in
10 Subsection A of this section. All tips received by such
11 employees shall be retained by the employee, except that
12 nothing in this section shall prohibit the pooling of tips
13 among employees.

14 D. An employee shall not be required to work more
15 than forty hours in any week of seven days, unless the employee
16 is paid one and one-half times the employee's regular hourly
17 rate of pay for all hours worked in excess of forty hours. For
18 an employee who is paid a fixed salary for fluctuating hours
19 and who is employed by an employer a majority of whose business
20 in New Mexico consists of providing investigative services to
21 the federal government, the hourly rate may be calculated in
22 accordance with the provisions of the federal Fair Labor
23 Standards Act of 1938 and the regulations pursuant to that act;
24 provided that in no case shall the hourly rate be less than the
25 federal minimum wage.

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E. On January 1, 2010 and on January 1 of each successive year, the minimum wage rate shall be increased by the increase in the cost of living. The increase in the cost of living shall be measured by the percentage increase as of August of the immediately preceding year over the level as of August of the previous year of the consumer price index for all urban consumers, United States city average for all items, or its successor index as published by the United States department of labor or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of five cents (\$.05). The workforce solutions department shall publish by November 1 of each year the adjusted minimum wage rates that shall take effect the following January 1."

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2009.